

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 23-292V

DEMONTA L. HAMBRIGHT,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: March 1, 2024

Scott B. Taylor, Urban & Taylor, S.C., Milwaukee, WI, for Petitioner.

Austin Joel Egan, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On February 28, 2023, Demonta L. Hambright filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the “Vaccine Act”). Petitioner alleges that he suffered a shoulder injury related to vaccine administration (“SIRVA”) resulting from an influenza (“flu”) vaccination he received on or about November 11, 2021. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On January 3, 2024, a ruling on entitlement was issued, finding Petitioner entitled to compensation for SIRVA. On February 29, 2024, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$59,500.00 in pain and suffering, and \$19.61 to satisfy, in full, the State of Wisconsin Medicaid lien. Proffer at 1-2. In the Proffer, Respondent represented that Petitioner agrees with the proffered

¹ Because this Decision contains a reasoned explanation for the action taken in this case, it must be made publicly accessible and will be posted on the United States Court of Federal Claims' website, and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc>, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (Federal Management and Promotion of Electronic Government Services). **This means the Decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

award. *Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **I award Petitioner the following compensation:**

- 1. A lump sum payment of \$59,500.00 in the form of a check payable to Petitioner, Demonta L. Hambright.**
- 2. A lump sum payment of \$19.61, representing compensation for satisfaction of the State of Wisconsin Medicaid lien, payable jointly to Petitioner and HMS Wisconsin Casualty Recovery, and mailed to:**

**HMS Wisconsin Casualty Recovery
5615 High Point Drive
Irving, TX 75038-9984
Re: Demonta L. Hambright – Case No. 274737
Attention: Shuniqua Young, Case Manager**

This amount represents compensation for all damages that would be available under Section 15(a).

The Clerk of Court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Brian H. Corcoran
Brian H. Corcoran
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

DEMONTA L. HAMBRIGHT,

Petitioner,

V.

SECRETARY OF HEALTH AND HUMAN
SERVICES,

Respondent.

No. 23-292V

Chief Special Master Corcoran
ECF

RESPONDENT'S PROFFER ON AWARD OF COMPENSATION

On February 28, 2023, Demonta L. Hambright (“petitioner”) filed a petition for compensation under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34 (“Vaccine Act” or “Act”), alleging that he suffered a shoulder injury related to vaccine administration (“SIRVA”) because of an influenza (“flu”) vaccine he received in his left deltoid on November 11, 2021. Petition at 1. On December 12, 2023, the Secretary of Health and Human Services (“respondent”) filed a Rule 4(c) Report indicating that this case is appropriate for compensation under the terms of the Act for a SIRVA Table injury, and on January 3, 2024, the Chief Special Master issued a Ruling on Entitlement finding petitioner was entitled to compensation. ECF Nos. 17-18.

I. Items of Compensation

A. Pain and Suffering

Respondent proffers that petitioner should be awarded **\$59,500.00** in pain and suffering.

See 42 U.S.C. § 300aa-15(a)(4). Petitioner agrees.

B. Medicaid Lien

Respondent further proffers that petitioner should be awarded funds to satisfy, in full, the State of Wisconsin Medicaid lien in the amount of **\$19.61**, which represents satisfaction of any right of subrogation, assignment, claim, lien, or cause of action the State of Wisconsin may have against any individual as a result of any Medicaid payments the State of Wisconsin has made to or on behalf of petitioner from the date of petitioner's eligibility for benefits through the date of judgment in this case as a result of petitioner's vaccine-related injury, under Title XIX of the Social Security Act.

II. Form of the Award

Respondent recommends that the compensation provided to petitioner should be made through lump sum payments as described below and requests that the Chief Special Master's damages decision and corresponding judgment award the following:¹

A. Pain and Suffering Damages

A lump sum payment of **\$59,500.00** for pain and suffering, in the form of a check payable to Demonta L. Hambright;

B. Medicaid Lien

A lump sum payment of **\$19.61**, representing compensation for satisfaction of the State of Wisconsin Medicaid lien, payable jointly to petitioner and to:

HMS Wisconsin Casualty Recovery
5615 High Point Drive
Irving, TX 75038-9984
Re: Demonta L. Hambright – Case No. 274737
Attention: Shuniqua Young, Case Manager

Petitioner agrees to endorse this payment to HMS Wisconsin Casualty Recovery.

¹ Should petitioner die prior to the entry of judgment, respondent reserves the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future medical expenses, future pain and suffering, and future lost wages.

III. Summary of Recommended Payments

- | | | |
|----|---|--------------------|
| A. | Lump sum payment to petitioner, Demonta L. Hambright | \$59,500.00 |
| B. | Lump sum payment payable jointly to petitioner and HMS Wisconsin Casualty Recovery in satisfaction of the State of Wisconsin Medicaid Lien. Petitioner agrees to endorse this payment to HMS Wisconsin Casualty Recovery. | \$19.61 |

Respectfully submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

C. SALVATORE D’ALESSIO
Director
Torts Branch, Civil Division

HEATHER L. PEARLMAN
Deputy Director
Torts Branch, Civil Division

COLLEEN C. HARTLEY
Assistant Director
Torts Branch, Civil Division

/s/ AUSTIN J. EGAN
Austin J. Egan
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Date: February 29, 2024